

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,
v.
SEAN LEVON WATSON,
Defendant.

NO. 2:14-cr-00028-SAB
2:14-cr-000162-SAB

**ORDER DENYING MOTION
FOR HEARING; DISMISSING
§ 2255 MOTION**

Before the Court is Defendant's Motion to Set Hearing and Transport Defendant, 2:14-cr-00028-SAB, ECF no. 104. The motion was heard without oral argument.

On October 7, 2016, Defendant filed a Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255. On November 10, 2016, the Court ordered the Government to respond. Rather than respond, the Government filed a Motion to Continue § 2255 Response and Motion to Appoint Attorney. The Government was concerned that Defendant may have breached the Sentencing Agreement by filing the § 2255 motion, which in turn could expose Defendant to additional charges. The Court granted the Government's request and appointed counsel to consult with Defendant to permit him to fully evaluate the consequences of continuing to litigate his § 2255 motion.

Recently, Bryant Whitaker, Defendant's appointed counsel, indicated that he has attempted to correspond with Defendant by mail, giving him instructions to

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1 either respond in kind or coordinate a telephonic conference with him through his
2 Case Manager. To date, Mr. Whitaker has not had any direct contact with
3 Defendant, nor has he received any correspondence indicating the manner in
4 which Defendant wishes to proceed. Counsel asks the Court to set a hearing date
5 and have Defendant transported to Spokane to allow Defendant to communicate
6 directly with him.

7 Given Defendant's complete failure to communicate with his appointed
8 counsel, the Court can only assume that Defendant no longer wishes to proceed
9 with his § 2255 motion, especially given that the Government has indicated that by
10 filing the § 2255 motion Defendant may have breached the Sentencing Agreement.
11 As such, rather than set a hearing date, the proper course of action is to dismiss
12 Defendant's § 2255 motion without prejudice.

13 Accordingly, **IT IS HEREBY ORDERED:**

14 1. Defendant's Motion to Set Hearing and Transport Defendant,
15 2:14-cr-00028-SAB, ECF No. 104, is **DENIED**.

16 2. Defendant's Motion to Vacate, Set Aside, or Correct Sentence under 28
17 U.S.C. § 2255, 2:14-cr-00028-SAB, ECF No. 89, is **DISMISSED without**
18 **prejudice.**

19 **IT IS SO ORDERED.** The District Court Executive is hereby directed to
20 file this Order, provide copies to counsel, and close the file.

21 **DATED** this 11th day of July 2017.



25 A handwritten signature in blue ink that reads "Stanley A. Bastian". The signature is cursive and fluid, with a long, sweeping line for the last name.

26 Stanley A. Bastian
27 United States District Judge
28